

Task Code 035-040 - PROCEDURES FOR COMPLETING THE NEGATIVE DECLARATION

PURPOSE

The Negative Declaration is a mechanism for the Lead Agency (i.e., the County) to officially declare, with substantial evidence, that either 1) the project does not potentially have a significant adverse impact on the environment, or 2) for "Mitigated" Negative Declarations, the project has a potentially significant adverse impact on the environment, but such effects are clearly mitigated by measures the project applicant has agreed to implement.

OUTLINE OF PRIMARY STEPS

Task 035 – Initial Study/Public Review Procedures

Completed by Project Manager

- For Projects with associated Specific Plans, Specific Plan Amendments, and General Plan Amendments, have the text complete and ready for public review concurrently with the appropriate CEQA document
- Upon receiving public review documents, cursorily review XIS studies and maps to make sure that they are not in underline/strikeout format and that these studies are the correct versions. When *electronic documents* are received, the planner needs to verify that all the required public review documents are on the submitted CDs or DVDs and that the correct amount of CDs / DVDs were received.
- Give the secretaries the distribution spreadsheet with applicable list of addresses. Provide them with an attached list of addresses including the owner, engineer, applicant, anyone who specifically requested notice of the public review period for the project.
- Complete the Negative Declaration form and make appropriate mandatory CEQA findings. Specify all applicable mitigation measures and design considerations.
- Complete the Public Review Notice Document/Legal Ad.
- Complete the Notice of Completion Form, if the project must be sent to the State Clearinghouse because of a state responsible agency or if a project is of statewide, regional or areawide environmental significance. Most projects are sent to the state clearinghouse because of Regional Water Quality Control Board involvement (if project has a SWMP) or the Dept of Fish and Game involvement (any habitat impacted). See section 15073(d) of CEQA guidelines for more info.
- Provide all public review docs to planning manager for review: Legal Notice, Draft Negative Declaration, IS/EA Form, An Ordinance Compliance Checklist, all extended studies, Notice of Completion, Mitigation Monitoring Plan (if Applicable)
- Initiate Public Review of the Negative Declaration.

Task 040 – Post Public Review/Pre-Decision Procedures

Completed by Project Manager

- Compile all public comments
- Identify late comments. The County considers comments on NDs to be received on time if the comment is: Received from the State Clearinghouse, postmarked on or before the date of the close of the public review period, received (either hand delivered or by fax) at the address in the legal advertisement or the County Clerk before 4:00 p.m. on or before the close of the public review period as represented by the County's date stamp. For late comments, respond to the comments as detailed in the 036 procedures, but do not include them in the final ND package. Keep the responses to late comments in the file. Do not list late commenters on the List of Individuals, Organizations, and Public Agencies that Commented on the draft ND.
- Identify valid comments. A comment per the California Environmental Quality Act (CEQA) is:
 - Statements alleging inadequacies in the identification of environmental effects,
 - Statements alleging inadequacies in the ability of Mitigation Measures or Design Considerations in clearly avoiding environmental effects,

- Statements alleging problems with the ND process.
- Statements alleging inaccuracies in the documentation.
- A recommendation for proposed changes to the project or proposed mitigation to reduce significant effects of the project
- Substantive statements demanding that an EIR be completed support with facts.
- Development Review Team (DRT) Briefing - If needed, staff should consult the Development Review Team for initial direction on substantive public review comments. Attendance under these circumstances shall be determined necessary by either DRT and/or Management.
- Mark each public comment letter using an alphabetical and numerical identifier
- Scan all marked up comment letters and import them into Documentum.
- Identify the specific comments that require specialist / DPW/ DEH/ DPR review
- Request 036 assignments for the specialists & DPW/DEH/DPR, as applicable, to complete Responses to Comments (036)
- Complete the Response to Comments
 - When responses to comments are received from specialists, review them to ensure they are adequate and incorporate them into the ND Response to Public Comments
 - Review all final conditions to ensure they don't raise new project issues. Have the Planning Manager review the conditions, as necessary.
- Fill out the ND List of Commenters
- Evaluate Comments/Response for 'Fair Argument' Standard
- Determine if recirculation of the Negative Declaration is required. If a "Fair Argument" has not been raised but changes have been made to the Draft Negative Declaration that was circulated for public review, review the changes per the requirements of CEQA Guidelines Section 15073.5 to determine if recirculation is required.
- If it determined that recirculation is required, return to 'Initial Study/Public Review Procedures' above, to initiate the recirculation process and do not complete any more of the procedures, below, under this task.
- Optional – re-request concurrence from the Project Applicant. If significant changes were made to project design considerations or mitigation measures subsequent to the original signing of the Application Amendment Form, the applicant must sign an updated "Application Amendment Form" thereby agreeing to the revised conditions.
- Complete the CEQA Transmittal Memo to communicate the required environmental findings, documents, environmental conditions of approval, notices, and processing issues
- Complete a draft Notice Of Determination in preparation for the project decision. Make sure that if the project is heard by the Board of Supervisors or Planning Commission, that the NOD is signed and filed with the County Clerk Immediately after Decision. Note: If a second reading is required by the BOS, the NOD is required to be completed and sent to the County Clerk after the second reading hearing.
- The next assignment will depend on whether the project requires a hearing or a director's decision:
 - If the project requires a hearing, get an assignment for 090 (Gather Information & Briefings)
 - If the project requires a director's decision, get a 090 (Gather Information and Briefings) and 100 task (Prepare Director's Decision)